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Phillips Pamela N NSA-DJ4 USA CIV

From: Phillips Pamela N NSA-DJ4 USA CIV
Sent: Thursday, June 27, 2013 10.05 AM
To: DL dj4_gov (ALIAS) DJ4
Subject: FW (U) Rick/Trum -- Media Leaks. Strategic Guidance Needed on Engaging FOIA Requesters
Signed By: pnphill@nsa ic gov

Classification: ~~TOP SECRET//SI//NOFORN~~

All,

(U~~//FOUO)~~ Thought you'd like to see Dave's vote of confidence for the entire FOIA/PA Staff! Dave and I and OGC met with Rick Ledgett yesterday afternoon to go over the GLOMAR process, and he was totally comfortable with it after the meeting, as well as everything else the FOIA Office is doing.

Pamela

(U)
Pamela N. Phillips
Chief, DJ4
Freedom of Information Act/Privacy Act Office
Ops2A1118, Suite 6248
966-4071s [redacted] (U)

From: Sherman David J Dr NSA-DJ USA CIV
Sent: Wednesday, June 26, 2013 6:07 PM
To: Phillips Pamela N NSA-DJ4 USA CIV
Cc: Blaskowski Paul J NSA-DJ4 USA CIV; [redacted] NSA-D28 USA CIV (b)(3)-P.L. 86-36
Subject: RE: (U) Rick/Trum -- Media Leaks: Strategic Guidance Needed on Engaging FOIA Requesters

Classification: ~~TOP SECRET//SI//NOFORN~~

(U~~//FOUO)~~ I have not said this enough: each of you and the entire team that is working this in DJ4 and OGC is doing an absolutely super job under difficult and rapidly changing conditions. It's confirming every day why NSA's FOIA program is called out as best-in-class. I'm the new guy and the amateur at all this, but for what it is worth I am extraordinarily proud and glad that I was offered the opportunity to be here with you at this time and see what is exceptional public service, in the true sense of the words, in action.

David J. Sherman
Associate Director for Policy and Records
National Security Agency
Room 2A0858
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969-2850 (secure)
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From: Phillips Pamela N NSA-DJ4 USA CIV
Sent: Wednesday, June 26, 2013 12:41 PM
To: Sherman David J Dr NSA-DJ USA CIV
Cc: Phillips Pamela N NSA-DJ4 USA CIV; Blaskowski Paul J NSA-DJ4 USA CIV; [redacted] NSA-D28 USA CIV
Subject: FW: (U) Rick/Trum -- Media Leaks: Strategic Guidance Needed on Engaging FOIA Requesters
Importance: High

Approved for Release by NSA on 05-02-2014, FOIA Case # 75752

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)
(b)(5)

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Dave,

~~(TS//SI//NF)~~ [redacted]

(U~~//FOUO~~) In the meantime, I am very appreciative of the fact that they concur with the approach to negotiating with the media requesters. I will gather those up and determine the best way to approach them and start making calls today or tomorrow. I will keep you posted on how those calls go.

Pamela

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966-4071s [redacted] (U)

(b)(3)-P.L. 86-36

From: Soule Trumbull D NSA-DC USA CIV
Sent: Wednesday, June 26, 2013 12:25 PM
To: Sherman David J Dr NSA-DJ USA CIV; Ledgett Richard H Jr NSA-V USA CIV
Cc: DL medialeaks_staff (ALIAS) K1; De Rajesh NSA-D2 USA CIV; [redacted] NSA-D2 USA CIV; [redacted] NSA-D28 USA CIV; [redacted] USA CIV [redacted] USA CIV; [redacted] USA CIV; Emmel Judith A NSA-DN USA CIV; [redacted] NSA-DN09 USA CIV; [redacted] USA CIV; [redacted] USA CIV; [redacted] NSA-DJ USA CIV; [redacted] NSA-DJ USA CIV; Phillips Pamela N NSA-DJ4 USA CIV; Blaskowski Paul J NSA-DJ4 USA CIV
Subject: RE: (U) Rick/Trum -- Media Leaks: Strategic Guidance Needed on Engaging FOIA Requesters

Classification: ~~TOP SECRET//COMINT//NOFORN~~

Dave,

Rick and I discussed this issue this morning, and I'm replying for both of us.

(U~~//FOUO~~) We concur with maintaining the current approach as you outlined below, that you reach out to those reporters with requests so broad as to be impossible to respond to and see if we can develop ways of meeting their needs.

(b)(3)-P.L. 86-36
(b)(5)

(U~~//FOUO~~) Separately, [redacted] Would you please work with [redacted] cc on this email as part of the DL MEDIALEAKS_Staff to arrange such a discussion with Rick + either [redacted] or me?

Thank you.

Trum (b)(3)-P.L. 86-36

(U~~//FOUO~~)

Trumbull D Soule

NSA Deputy Chief of Staff

NSA Media Leaks Event Lead

OPS 2B, Room 2B8044, Suite 6242

For Chief of Staff Issues 963-3444s [redacted]

For Media Leaks Team: use DL MEDIALEAKS_Staff or 963-2356s

From: Sherman David J Dr NSA-DJ USA CIV
Sent: Tuesday, June 25, 2013 8:49 AM
To: Ledgett Richard H Jr NSA-V USA CIV; Soule Trumbull D NSA-DC USA CIV
Cc: DL medialeaks_staff (ALIAS) K1; De Rajesh NSA-D2 USA CIV [redacted] NSA-D2 USA CIV; [redacted] NSA-D28 USA CIV; [redacted] USA CIV; [redacted] USA CIV; [redacted] USA CIV; Emmel Judith A NSA-DN USA CIV; [redacted] NSA-DN09 USA CIV; [redacted] USA CIV; [redacted] USA CIV; [redacted] NSA-DJ USA CIV [redacted] NSA-DJ USA CIV; Phillips Pamela N NSA-DJ4 USA CIV; Blaskowski Paul J NSA-DJ4 USA CIV
Subject: (U) Rick/Trum -- Media Leaks: Strategic Guidance Needed on Engaging FOIA Requesters

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Rick/Trum:

BLUF: (U~~//FOUO~~) We need to make a strategic decision on how we respond to FOIA requests from the media and the advocacy community, more specifically on continuing our traditionally forward-leaning engagement with requesters to narrow overly broad searches and provide responsive materials. I've coordinated the attached with [redacted] OGC, PAO, and [redacted] who concur. We recommend maintaining this approach.

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(U~~//FOUO~~) By way of background:

- We traditionally have leaned forward in contacting requesters whose FOIAs are so broadly drawn as to make a response impossible.

- We attempt to negotiate more focused requests meeting their needs.

- We have taken this approach as such engagement is in line with the President's direction regarding transparency in government.

- It also may reduce the chances of a requester citing lack of responsiveness on our part and opting for litigation.

(U//FOUO) The nature of current media and privacy NGO requests suggests that we revalidate this approach.

- We've received roughly 20 significant media/NGO requests since 5 June.

- We should expect them to continue for the foreseeable future and spike after new press items, testimony, etc..

(b)(3)-P.L. 86-36
(b)(5)

- Over 1000 requests in all have come in during this period.

- The overwhelming majority from individuals seeking records NSA allegedly holds on them.

- There is at least one website facilitating individual requests accounting for half of the total.

(TS//SI//NF) By way of example [redacted]

(U//FOUO) [redacted]

(U//FOUO) Were the scope of this latter request to be limited [redacted] however, we could respond to it.

(U//FOUO) Under our past SOP, the FOIA office chief or deputy (not line staff) would contact [redacted] to ascertain the exact information that it is seeking and see if we can narrow the search to something manageable.

(U//FOUO) The benefit to continuing this approach in the current context is that we remain engaged with the requesters and do not have media suggesting we are unresponsive.

(U//FOUO) That said, it is entirely possible that [redacted] Those searches are completely feasible to conduct and presumably could surface responsive materials. As I

understand matters, there are grounds for withholding [redacted] but we would have to indicate that we were withholding them and provide the reasons.

(U~~//FOUO)~~ On balance, **our recommendation is that we continue to reach out to those with requests so broad as to be impossible to respond to and see if we can develop ways of meeting their needs** and thus have a better chance of providing what we can consistent with our obligation to protect classified or otherwise exempted information. In the current context, the alternative of being portrayed in the media as unresponsive seems to carry too much risk. We would continue to coordinate any activity in this regard with OGC and, for media requests, PAO.

Dave

(b)(3)-P.L. 86-36
(b)(5)

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(b)(3)-P.L. 86-36

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